

AN ACT relating to evidence, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 15.440 is amended to read as follows:

- (1) Each local unit of government which meets the following requirements shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund:
 - (a) Employs one (1) or more police officers;
 - (b) Pays every police officer at least the minimum federal wage;
 - (c) Maintains the minimum educational requirement of a high school degree, or its equivalent as determined by the Kentucky Law Enforcement Council, for employment of police officers on or after July 1, 1972, and for all sheriffs appointed or elected on or after July 15, 1998, and all deputy sheriffs, and state or public university police officers employed after July 15, 1998; provided, however, that all police officers employed prior to July 1, 1972, shall be deemed to have met the requirements of this subsection, and that all sheriffs serving in office on July 15, 1998, all deputy sheriffs, and state or public university police, employed prior to July 15, 1998, shall be deemed to have met the requirements of this subsection;
 - (d) Requires all police officers employed on or after July 1, 1972, and all sheriffs appointed or elected on or after July 15, 1998, and deputy sheriffs, and state or public university police officers employed on or after January 1, 1998, to successfully complete a basic training course of at least six hundred forty (640) hours' duration within one (1) year of the date of employment at a school certified or recognized by the Kentucky Law Enforcement Council. All sheriffs serving in office on July 15, 1998, all deputy sheriffs, and state or public university police, employed prior to January 1, 1998, shall be deemed

to have met the requirements of this subsection. The council may, by the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A, set the number of hours for basic training at a number higher than six hundred forty (640) hours based upon a training curriculum approved by the Kentucky Law Enforcement Council as determined by a validated job task analysis;

- (e) Requires all police officers, whether originally employed before or after July 1, 1972, and all sheriffs appointed or elected before, on, or after July 15, 1998, and all deputy sheriffs and state or public police officers employed before, on, or after July 15, 1998, to successfully complete each calendar year an in-service training course, appropriate to the officer's rank and responsibility and the size and location of his department, of at least forty (40) hours' duration at a school certified or recognized by the Kentucky Law Enforcement Council. This requirement shall be waived for the period of time that a peace officer is serving on active duty in the United States Armed Forces. This waiver shall be retroactive for peace officers from the date of September 11, 2001;
- (f) Requires compliance with all provisions of law applicable to local police, state or public university police, or sheriffs and their deputies, including transmission of data to the centralized criminal history record information system as required by KRS 17.150;
- (g) Requires compliance with all reasonable rules and regulations, appropriate to the size and location of the local police department, state or public university police department, or sheriff's office, issued by the Justice and Public Safety Cabinet to facilitate the administration of the fund and further the purposes of KRS 15.410 to 15.510;~~and~~
- (h) Possesses a written policy and procedures manual related to domestic violence for law enforcement agencies that meets the standards set forth by, and has

been approved by, the Justice and Public Safety Cabinet. The policy shall comply with the provisions of KRS 403.715 to 403.785. The policy shall include purpose statements; definitions; supervisory responsibilities; procedures for twenty-four (24) hour access to protective orders; procedures for enforcement of court orders or relief when protective orders are violated; procedures for timely and contemporaneous reporting of adult abuse and domestic violence to the Cabinet for Families and Children, Department for Community Based Services; victim rights, assistance, and service responsibilities; and duties related to timely completion of records; and

(i) Possesses by January 1, 2017, a written policy and procedures manual related to sexual assault examinations that meets the standards set forth by, and has been approved by, the Justice and Public Safety Cabinet, and which includes:

1. A requirement that evidence collected as a result of an examination performed under KRS 216B.400 be taken into custody within five (5) days of notice from the collecting facility that the evidence is available for retrieval;
2. A requirement that all evidence retrieved from a collecting facility under this paragraph be transmitted to a Department of Kentucky State Police forensic laboratory within thirty (30) days of its receipt by the department;
3. A prohibition on the destruction by the department of any evidence collected as a result of an examination performed under KRS 216B.400; and
4. A process for notifying the victim from whom the evidence was collected of the progress of the testing and whether the testing resulted in a match to other DNA samples, but which does not automatically

require the disclosure of the identity of any person to whom the evidence matched.

- (2) No local unit of government which meets the criteria of this section shall be eligible to continue sharing in the distribution of funds from the Law Enforcement Foundation Program fund unless the local police department, state or public university police department, or sheriff's office actually begins and continues to comply with the requirements of this section; provided, further, that no local unit shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund until the local police department, state or public university police department, or sheriff's office has substantially complied with subsection (1)(f) and (g) of this section.
- (3) A sheriff's office shall not lose eligibility to share in the distribution of funds from the Law Enforcement Foundation Program fund if the sheriff does not participate in the Law Enforcement Foundation Program fund.

(4) Failure to meet a deadline established in a policy adopted pursuant to subsection (1)(i) of this section for the retrieval or submission of evidence shall not be a basis for a dismissal of a criminal action or a bar to the admissibility of the evidence in a criminal action.

➔Section 2. KRS 17.175 is amended to read as follows:

- (1) A centralized database of DNA (deoxyribonucleic acid) identification records for convicted or adjudicated offenders, crime scene specimens, unidentified human remains, missing persons, and close biological relatives of missing persons shall be established in the Department of Kentucky State Police under the direction, control, and supervision of the Department of Kentucky State Police forensic laboratory. The established system shall be compatible with the procedures set forth in a national DNA identification index to ensure data exchange on a national level.
- (2) The purpose of the centralized DNA database is to assist federal, state, and local

criminal justice and law enforcement agencies within and outside the Commonwealth in the identification, detection, or exclusion of individuals who are subjects of the investigation or prosecution of sex-related crimes, violent crimes, or other crimes and the identification and location of missing and unidentified persons.

- (3) (a) The Department of Kentucky State Police forensic laboratory shall receive, analyze, and classify DNA samples received from the Department of Corrections, the Department of Juvenile Justice, and other sources, and shall file the DNA results in the centralized databases for law enforcement identification and statistical purposes. The department shall analyze and classify all sexual assault evidence collection kits it receives, and by July 1, 2018, the average completion rate for this classification shall not exceed ninety (90) days. By July 1, 2020, the average completion rate for this classification shall not exceed sixty (60) days.
- (b) Failure to meet a deadline established in this section shall not be a basis for a dismissal of a criminal action or a bar to the admissibility of the evidence. The Department of Kentucky State Police shall, by August 1 of each year, report to the Legislative Research Commission on the average completion rate for the immediately preceding five (5) fiscal years.
- (c) With approval by the secretary of the Justice and Public Safety Cabinet in situations in which an equipment casualty necessitates the expedited acquisition or repair of laboratory equipment required for the analysis of evidence covered by this subsection due to statutory or casework deadlines, the acquisition or repair shall be exempt from the Finance Cabinet's competitive bidding process for both acquisition and repair purposes. Each time the authority granted by this paragraph is used, the equipment acquisition or repair shall be fully documented within thirty (30) days by the agency head in a written or electronic letter to the secretary of the Finance

and Administration Cabinet, attached to an ordering or payment document in the state's procurement system, which shall include:

1. An explanation of the equipment acquired or repaired;
2. Name of vendor selected;
3. Amount of procurement;
4. Other price quotations obtained; and
5. Basis for selection of vendor.

- (4) DNA identification records produced from the samples are not public records but shall be confidential and used only for law enforcement purposes. DNA identification records shall be exempt from the provisions of KRS 61.870 to 61.884.
- (5) A person whose DNA profile has been included in the data bank pursuant to this chapter may request expungement on the grounds that the conviction or adjudication on which the authority for including the DNA profile was based has been reversed and the case dismissed, or that the person successfully completed the pretrial diversion program under KRS 533.258 and the charges were dismissed-diverted. The Department of Kentucky State Police shall expunge all identifiable information in the data bank pertaining to the person and destroy all samples from the person upon receipt of:
 - (a) A written request for expungement pursuant to this section; and
 - (b) Either:
 1. A certified copy of the court order reversing and dismissing the conviction or adjudication; or
 2. A certified copy of the court order deeming the charges dismissed-diverted.
- (6) The cabinet shall promulgate administrative regulations necessary to carry out the provisions of the DNA database identification system to include procedures for collection of DNA samples and the database system usage and integrity.

- (7) The Department of Kentucky State Police shall destroy all DNA samples that are not entered into the DNA database identification system.
- (8) Any person who disseminates, receives, or otherwise uses or attempts to use information in the DNA database identification system, knowing that such dissemination, receipt, or use is for a purpose other than authorized by this section, shall be guilty of a Class D felony.

➔Section 3. Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, \$5,000,000 in fiscal year 2016-2017 from the Kentucky Law Enforcement Foundation Program fund shall be used for the purchase of equipment for the Kentucky State Police Central Laboratory. The equipment shall be used to complete DNA analyses of sexual assault kits. DNA analyses of each sexual assault kit shall be completed by the Central Laboratory within 90 days of receipt of the sexual assault kit.

➔Section 4. The capital purchase authorized pursuant to Section 3 of this Act does not create an expectation of General Fund or restricted fund moneys being appropriated in a future biennium for operation, maintenance, or debt service of the facility equipment.

➔Section 5. Whereas it is imperative that the commencement of this capital purchase begin in fiscal year 2016-2017, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.